



MCDERMOTT WILL & EMERY LLP
18191 VON KARMAN AVE.
IRVINE CA 92612-7107

COPY MAILED

JUL 15 2004

OFFICE OF PETITIONS

In re Application of
Ryan Mason, et al
Application No. 10/787,226
Filed: February 27, 2004
Attorney Docket No. 049051-0222

DECISION ON PETITION

This is a decision on the petition filed May 28, 2004, requesting that the above-identified application be accorded a filing date of February 27, 2004.

The application was deposited on February 27, 2004. However, on May 17, 2004, Initial Patent Examination Division mailed a Notice stating that, while a filing date had been accorded the application papers, page two of the specification was missing from the application.

In response, on May 28, 2004, the present petition was filed wherein petitioner argues that a specification having thirty-two (32) pages was submitted on filing, including page two (2). As evidence thereof, petitioner submitted, *inter alia*, a copy of his postcard receipt. Petitioner requests that the application, including page two of the specification, be accorded a filing date of February 27, 2004. A copy of page two (2) of the specification accompanied the petition.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of the postcard receipt reveals that: (1) it was date stamped as received in the Office of Initial Patent Examination (OIPE) on February 27, 2004; (2) it specifically identifies the items being filed, including "32 pages of specification; 8 pages of claims; 1 page of abstract; and 7 pages of drawings"; and (3) it lacks any annotation of non-receipt of any item denoted on the postcard.

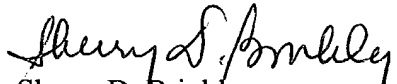
The application papers already considered received in the Office of on February 27, 2004, were reviewed along with the missing page of specification submitted on petition. These papers together constitute the items described on the postcard receipt. Petitioner has shown that page 2 of the specification was among the items present in the application on the date of deposit and should be included in the original disclosure.

In view of the above, the petition is GRANTED. The petition fee, which was charged to counsel's deposit account, is being refunded thereto.

The Notice mailed May 17, 2004, was sent in error and is hereby VACATED.

The application is being returned to Initial Patent Examination Division for consideration of the request for a corrected filing receipt and for further processing with a filing date of February 27, 2004, using the copy of page 2 filed May 28, 2004.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to Initial Patent Examination Division processing should be directed to their hotline at (703) 308-1202.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy